

**RECEIVED**

**Sep 26 2025**

**S.C. SUPREME COURT**

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

—————  
Certiorari to Berkeley County

Honorable Walton J. McLeod, IV, Circuit Court Judge  
—————

JEFFREY SANDERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000550  
—————

APPENDIX  
—————

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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA ) GENERAL SESSIONS COURT  
 )  
 COUNTY OF CHARLESTON ) NINTH JUDICIAL CIRCUIT  
 COUNTY OF BERKELEY )

THE STATE OF SOUTH CAROLINA ) NOS. 2021-GS-08-01417; -00663;  
 ) and -00664  
 VS. ) TRANSCRIPT OF RECORD  
 )  
 JEFFERY LAMONT SANDERS ) Plea Hearing  
 )

---

B E F O R E:

The Honorable Roger M. Young, Sr., Judge  
 Moncks Corner, South Carolina

DATE: Monday, May 9, 2022

A P P E A R A N C E S:

Kawohikukapulani Schaumburg Morris, Esquire  
 Assistant Solicitor

Ninth Circuit Solicitor's Office  
 300-B California Avenue  
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Attorney for the State

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Attorney for the Defendant

Reported by: Cathy J. Provost, RMR, Official Court Reporter

Also Present:

Leroy Boyd, Agent  
South Carolina Department of Probation, Parole, & Pardon Services

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(No witnesses called.)

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(No exhibits marked.)

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COURT REPORTER LEGEND:

- dash -- intentional/purposeful interruption; change in thought
- ellipses ... trailing off
- [ph] phonetically written
- [sic] written as said
- [indiscernible] unable to be understood due to low volume or quality of audio

1                   -- P R O C E E D I N G S --

2           ATTORNEY MORRIS: State calls Jeffery Sanders. And, Your  
3 Honor, Mr. Sanders is pleading guilty to one indictment from  
4 Charleston, 2021-GS-10-1937, which is a failure to stop for a  
5 blue light, as well as three indictments from Berkeley,  
6 2021-GS-08-663, unlawful carrying of a pistol, 2021-GS-08-664,  
7 failure to stop for a blue light, and 2021-GS-08-1417. It was  
8 indicted as trafficking fentanyl, 14 grams but less than  
9 28 grams; however, the defendant is pleading guilty to possession  
10 with intent to distribute heroin, second offense.

11           THE COURT: All right. You're Jeffery Lamont Sanders?

12           MR. SANDERS: Yes, sir.

13           THE COURT: All right. Mr. Sanders, you're here today,  
14 looks like, to plead guilty to four charges; three of them are  
15 Berkeley and one of them's Charleston. For me to do the  
16 Charleston one today you have to give up your right to have the  
17 Charleston hearing handled in Charleston. Do you agree to that?

18           MR. SANDERS: Yes, sir.

19           THE COURT: All right. The Charleston charge is failure to  
20 stop for a blue light. You can get up to three years for that.  
21 Do you want to plead guilty to that?

22           MR. SANDERS: Yes, sir.

23           THE COURT: Then over in Berkeley you've got unlawful  
24 carrying of a pistol, zero to one, you want to plead guilty to  
25 that?

1 MR. SANDERS: Yes, sir.

2 THE COURT: And failure to stop for a blue light, zero to  
3 three, you want to plead guilty to that?

4 MR. SANDERS: Yes, sir.

5 ATTORNEY MORRIS: And then possession with intent to  
6 distribute heroin, second offense, is -- actually it's 5 to 30,  
7 right? Do you want to plead guilty to that?

8 MR. SANDERS: Yes, sir.

9 THE COURT: All right. Now, on each these you have the  
10 right to a jury trial. You give up your right to a jury trial by  
11 pleading guilty. If you want a trial stop me and we'll arrange  
12 that for you. The State then has to present enough evidence to  
13 convince 12 jurors you're guilty beyond a reasonable doubt. All  
14 12 have to agree that you're guilty in order to convict you. If  
15 convicted, you have the right to appeal. You can challenge the  
16 State's evidence, put up evidence of your own, testify if you  
17 want. If you don't want to testify the Judge will tell the jury  
18 not to hold that against you while they're deliberating.

19 Do you understand all those rights?

20 MR. SANDERS: Yes, sir.

21 THE COURT: Do you want to give those rights up and plead  
22 guilty?

23 MR. SANDERS: Yes, sir.

24 THE COURT: Are you pleading guilty to these charges because  
25 you're guilty of them?

1 MR. SANDERS: Yes, sir.

2 THE COURT: Are you under the influence of drugs or alcohol  
3 today?

4 MR. SANDERS: No, sir.

5 THE COURT: Do you need any more time with your lawyer?

6 MR. SANDERS: No, sir.

7 THE COURT: Are you satisfied with his representation?

8 MR. SANDERS: Yes, sir.

9 THE COURT: All right. So they dropped a trafficking charge  
10 down to possession with intent to distribute, second, so that  
11 went from 25 minimum to 5 to 30, and y'all have negotiated a plea  
12 for an eight-year active sentence. Is that what I understand,  
13 this is an eight-year active sentence?

14 MR. SANDERS: Yes, sir.

15 THE COURT: All right. And you want me to accept that  
16 negotiation? Well, it's between the two of you all. I have to  
17 accept it or reject it, so I assume you want me to do it.  
18 Otherwise you wouldn't be pleading to it.

19 MR. SANDERS: Yes, sir. Yes, sir.

20 THE COURT: All right. So other than that, did anybody  
21 promise you anything or threaten you to get you to plead guilty?

22 MR. SANDERS: No, sir.

23 THE COURT: How old are you?

24 MR. SANDERS: Thirty-seven.

25 THE COURT: How far did you get in school?

1 MR. SANDERS: Graduated.

2 THE COURT: Do you have a job?

3 MR. SANDERS: Yes, sir.

4 THE COURT: What do you do?

5 MR. SANDERS: I'm a glazer.

6 THE COURT: Married?

7 MR. SANDERS: No, sir.

8 THE COURT: Children?

9 MR. SANDERS: Four.

10 THE COURT: Mr. Bybee, does he understand what he's doing?

11 ATTORNEY BYBEE: He does, Your Honor.

12 THE COURT: I find his plea is freely, voluntarily, and  
13 intelligently made. What would the State like to tell me?

14 ATTORNEY MORRIS: May it please the Court. Kawohiku Morris  
15 on behalf of the State. For the Berkeley charges, on July 17th,  
16 2020, Berkeley County Sheriff's Office deputies set up a driver's  
17 license checkpoint in the area of 1516 Old Gilliard Road in  
18 Ridgeville, Berkeley County. A vehicle approached and stopped  
19 abruptly just before the checkpoint location. The vehicle made  
20 an abrupt U-turn without signaling, and then ran off the right  
21 side of the roadway.

22 A traffic stop was attempted but the vehicle continued  
23 traveling and reached speeds of up to 125 miles per hour. During  
24 the pursuit the defendant struck an SUV and then continued  
25 another quarter-mile down the road before losing control of the

1 vehicle and falling into a ditch. The pursuit ended in the Holly  
2 Hill area of Orangeburg County. The defendant attempted to flee  
3 on foot and was apprehended.

4 A handgun was sitting on the driver's seat of the vehicle.  
5 The defendant admitted that he had a large bag of narcotics in a  
6 shoe in the vehicle. A search of the vehicle yielded a scale and  
7 a large amount of a tan, powdered substance in that shoe. The  
8 defendant stated the substance was heroin; however, SLED  
9 confirmed the substance as fentanyl, weighing 17.53 grams.

10 For the Charleston failure to stop for a blue light the  
11 facts are: On February 7th, 2020, Officer Davis with the North  
12 Charleston Police Department attempted to initiate a traffic stop  
13 on a black Infiniti G35 that the defendant was driving for a  
14 window-tint violation on Ashley Phosphate Road and Industry Drive  
15 in the city of North Charleston, County of Charleston. The  
16 defendant continued traveling after officers activated their  
17 sirens. The defendant entered on I-26 and finally came to a stop  
18 at the right shoulder of the College Park exit.

19 The defendant's prior record is a 2010 driving under  
20 suspension; 2012 strongarm robbery; 2014 driving under  
21 suspension, possession of a controlled substance, possession of  
22 cocaine; 2017 malicious injury to personal property. For that  
23 conviction, he's currently on probation out of Orangeburg County,  
24 and it's my understanding that they also want that probation  
25 violation considered today.

1           And the State is aware that the defense plans on asking for  
2 credit for the GPS monitor, and the State does not agree with  
3 giving the defendant credit for being on the GPS monitor. I had  
4 moved to revoke his bond twice for violations. He had a curfew  
5 from 6:45 a.m. to -- I'm sorry -- he was allowed to work between  
6 the hours of 6:45 a.m. to 6:45 p.m. He was consistently out past  
7 that time. He was -- and this was only during the time period  
8 Monday through Friday. He was consistently violating his house  
9 arrest on the weekends, as well, and so I just wanted the Court  
10 to be aware that the State is not consenting to giving credit for  
11 GPS monitoring.

12           THE COURT: All right. Mr. Bybee.

13           ATTORNEY BYBEE: Thank you, Your Honor. May it please the  
14 Court. Mr. Sanders is here today accepting responsibility for  
15 his actions. He's apologetic for his actions. He understands  
16 what could have happened, and that he's lucky that he didn't hurt  
17 anybody else aside from the injury to the motorist -- and not the  
18 motorist person, the motorist's car.

19           This does arise out a substance abuse disorder, and  
20 counseling with him, he's going to Berkeley Mental Health and  
21 he's gotten himself on Suboxone and he's trying to deal with that  
22 issue himself. I would ask that Your Honor, to that end, order  
23 drug counseling in SCDC.

24           He has four children. As far as the revocation and credit  
25 for the time, he's been on monitoring. He works in construction.

1 Those jobs take him to different places at different hours of the  
2 day, and I would just point out that both motions were denied, so  
3 I don't know that we need to relitigate that here today.

4 As far as the gun, Your Honor, while it was in his  
5 possession and he admits and accepts responsibility for that, on  
6 information, I believe, it belongs to one Navadria Miller. So to  
7 the extent he's signing a forfeiture order, he is only giving up  
8 his rights in that gun.

9 THE COURT: How many days are you asking for?

10 ATTORNEY BYBEE: A total of 492. And he's accepting  
11 responsibility with a fairly large chunk of time.

12 THE COURT: What about the probation?

13 AGENT BOYD: According to documents I received from  
14 Orangeburg, they're asking for a revocation in full if he pleads  
15 guilty to these charges.

16 THE COURT: I see he's got 10 years hanging over his head on  
17 one of them. He's got two probation matters; one's 5 and one's  
18 10. Is that right?

19 ATTORNEY BYBEE: Your Honor, I might need to stand this  
20 down. I apologize. I was unaware that there was 10 years  
21 hanging over his head.

22 AGENT BOYD: That's correct, Your Honor.

23 (Attorney Bybee and the defendant confer.)

24 ATTORNEY BYBEE: Your Honor, if it please the Court, I  
25 started this representation just last month, so if you would let

1 me, allow me, to stand down and explain this to him, I'll get the  
2 documentation from probation, we may be able to come back up this  
3 afternoon. I just want to make sure that he fully understands.

4 THE COURT: All right.

5 (The parties stand down, and the case was later recalled.)

6 ATTORNEY MORRIS: State calls Jeffery Sanders.

7 THE COURT: All right. Well, you had talked to your client.  
8 What have you decided?

9 ATTORNEY BYBEE: Your Honor, thank you for the Court's  
10 indulgence, and my apologies for not having addressed this  
11 previously with my client. I got the violation report today.

12 He was put on probation January 27th of '17. Judge Dickson  
13 extended him on 12/12 of '18 for nonpayment of fines and failing  
14 some drug tests. Then on 2/5/20 he was continued on probation  
15 based on fine violations.

16 Mr. Sanders is aware Your Honor has the power to fully  
17 revoke him and send him to jail. However, we would ask that Your  
18 Honor consider this current sentence, and negotiated sentence,  
19 enough and terminate that probation.

20 THE COURT: All right. Mr. Sanders, you want to say  
21 anything?

22 MR. SANDERS: I just want to please say something to the  
23 Court. My name is Jeffery Sanders. I know I did some things  
24 that I shouldn't have did. I have a family back home. I got  
25 four kids I have to take care of myself. I'm a working man. I

1 work every day of the week. I don't get in no trouble at all.  
2 I'm doing the best I can in life to stay straight. This here was  
3 mainly something that I -- I had a little drug problem. I  
4 admit -- I've got too much going on. And ...

5 ATTORNEY BYBEE: Your Honor, if I may for him? As he was  
6 trying to explain to you, he's got four children. They're in the  
7 maternal grandmother's care. He does pay child support for them.  
8 The mother is in a vegetated state. He's going to jail for a  
9 significant portion of time. He's begging for your mercy. He's  
10 accepting responsibility for his actions. He's acknowledging  
11 that they were wrong.

12 SENTENCE OF THE COURT

13 THE COURT: All right. Failure to stop for a blue light is  
14 three years; the possession with intent to distribute heroin,  
15 second, is eight years; unlawful carrying of a pistol, one year;  
16 failure to stop for a blue light is three years.

17 I'm going to just terminate your Orangeburg probation and  
18 give you a fresh start when you get out because you've got eight  
19 years. I'm not going to give you any credit for the GPS time  
20 because it didn't sound like you were doing that successfully.  
21 So good luck. They'll run concurrent.

22 ATTORNEY MORRIS: Thank you, Your Honor.

23 AGENT BOYD: Your Honor, with restitution on the Orangeburg  
24 probation case, you want to convert it to a civil judgment?

25 THE COURT: Yes.

1 (End of Transcript of Record.)

2  
3 CERTIFICATE OF REPORTER

4 I, Cathy J. Provost, Official Court Reporter for the  
5 Fourteenth Judicial Circuit of the State of South Carolina, do  
6 hereby certify that the foregoing is a true, accurate and  
7 complete Transcript of Record of the proceedings had and evidence  
8 introduced in the trial/proceedings of the captioned case in the  
9 Court of General Sessions for the Counties of Charleston and  
10 Berkeley, South Carolina, on the 9th day of May, 2022.

11 I do further certify that I am neither of kin, counsel, nor  
12 interest to any party hereto.

13  
14 Date: July 10, 2023

15  
16 \s\ Cathy J. Provost  
17 Cathy J. Provost, RMR  
18 Official Circuit Reporter  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA )

County of Berkeley )

Jeffery Lamont Sanders )

Full name and prison number (if any) of Applicant )

#387903 )

v. )

State of South Carolina )

IN THE COURT OF COMMON PLEAS

2023-CP-08-00656

APPLICATION FOR  
POST-CONVICTION

FILED  
2023 MAR -6 PM 2:46  
LEAH J. JEFFREY  
CLERK OF COURT  
BERKELEY COUNTY, SC

**INSTRUCTIONS - READ CAREFULLY**

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

- Place of detention Waterloo Correctional Institution  
P.O. Box 189 Rembert, South Carolina 29128
- Name and location of Court which imposed sentence Berkeley County  
Courthouse 300-B California Ave. Moncks Corner, SC.  
29461
- Name(s) of co-defendant(s) (if any) NONE
- The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - 2021 G50800663 < UNLAWFUL CARRYING A PISTOL >
  - 2021 G50800664 < FAILURE TO STOP FOR BLUE LIGHT >  
1st OFFENSE

cc: G.L.S./C.D. PDC  
3/6/23

*[Handwritten signature]*

(c) 2021 GS08001417 < TRAFFICKING HEROIN >

5. The date upon which sentence was imposed and the terms of the sentence:

(a) 05-09-2022 < SCDC 1yr. > CONC.

(b) 05-09-2022 < SCDC 3yrs. > CONC.

(c) 05-09-2022 < SCDC 8yrs. > CONC; ATU, CTS

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓

(b) after a plea of not guilty \_\_\_\_\_

(c) after a plea of nolo contendere \_\_\_\_\_

7. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. \_\_\_\_\_  
ii. \_\_\_\_\_  
iii. \_\_\_\_\_

(b) the result in each such Court to which you appealed:

i. \_\_\_\_\_  
ii. \_\_\_\_\_  
iii. \_\_\_\_\_

(c) the date of each such result:

i. \_\_\_\_\_  
ii. \_\_\_\_\_  
iii. \_\_\_\_\_

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. \_\_\_\_\_  
ii. \_\_\_\_\_  
iii. \_\_\_\_\_

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) I didn't UNDERSTAND my 10 days rights to APPEAL.

(b) I didn't HAVE ACCESS to the LIBRARY OR  
Nothing.

(c) \_\_\_\_\_

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) PLEA COUNSEL WAS INEFFECTIVE FOR FAILURE
- (b) TO APPEAL THE PLEA JUDGE DECISION FOR DENIED
- (c) TIME CREDIT WHEN THE APPLICANT WAS ON HOUSE ARREST.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) PLEAS COUNSEL WAS INEFFECTIVE FOR FAILURE
- (b) TO APPEAL THE PLEA JUDGE DECISION FOR DENIED
- (c) TIME CREDIT WHEN THE APPLICANT WAS ON HOUSE ARREST.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? \_\_\_\_\_

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_
- (b) the name and location of the Court in which each was filed:
  - i. \_\_\_\_\_
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_
  - iv. \_\_\_\_\_

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

17. Were you represented by an attorney at any time during the course of;

- (a) your arraignment and plea? JASON C. Bybee
- (b) your trial, if any? NO
- (c) your sentencing? \_\_\_\_\_
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NONE

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
  - i. JASON C. Bybee  
219 N. Hwy. 52 STE# E MONCK'S CORNER, S.C.  
29416
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

(b) the proceedings at which each such attorney represented you:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

(c) the disposition thereof:

- i. ~~\_\_\_\_\_~~
- ii. ~~\_\_\_\_\_~~
- iii. ~~\_\_\_\_\_~~
- iv. ~~\_\_\_\_\_~~

(d) the date of each such disposition:

- i. ~~\_\_\_\_\_~~
- ii. ~~\_\_\_\_\_~~
- iii. ~~\_\_\_\_\_~~
- iv. ~~\_\_\_\_\_~~

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

- i. ~~\_\_\_\_\_~~
- ii. ~~\_\_\_\_\_~~
- iii. ~~\_\_\_\_\_~~
- iv. ~~\_\_\_\_\_~~

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

*NO*

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

- i. ~~\_\_\_\_\_~~
- ii. ~~\_\_\_\_\_~~
- iii. ~~\_\_\_\_\_~~

(b) the proceedings in which each ground was raised:

- i. ~~\_\_\_\_\_~~
- ii. ~~\_\_\_\_\_~~
- iii. ~~\_\_\_\_\_~~

19. State clearly the relief you seek in filing this application:

I AM seeking credit For House Arrest  
From JANUARY 28, 2021 to MAY 9, 2022

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA

County of Berkeley Springs

VERIFICATION

I, Jeffery Lamont Sanders, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Jeffery Sanders

SWORN to and subscribed before me this 27th  
day of February, 2023  
Pamela D Hatfield (L.S.)  
Notary Public

My Commission Expires: 04/08/2033

FILED  
2023 MAR -6 PM 2:46  
LEAH QUEEN, CLERK OF COURT  
BERKELEY COUNTY, SC

**APPLICATION TO PROCEED WITHOUT PAYMENT  
OF COSTS AND AFFIDAVIT  
IN SUPPORT THEREOF**

I, Jeffery Sanders, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Jeff Sanders  
Applicant

SWORN or affirmed to and subscribed before me this  
27th day of February 2023.  
Pamela D. Hatfield  
Notary Public

My Commission Expires: 04/08/2032

FILED  
2023 MAR -6 PM 2:46  
LEAH QUENY BURNE -  
CLERK OF COURT  
BERKELEY COUNTY, SC

STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

Jeffery Lamont Sanders, #387903

Applicant,

v.

State of South Carolina,

Respondent.

) IN THE COURT OF COMMON PLEAS FOR  
) THE NINTH JUDICIAL CIRCUIT  
)

) Case No.: 2023-CP-08-00656  
)

) **RETURN**  
) **(Counsel already appointed)**  
)

2023 OCT -4 PM 2:58  
LEAH GUERRY SUPP  
CLERK OF COURT  
BERKELEY COUNTY, SC

*[Handwritten signature]*  
FILED

In response to the application for post-conviction relief filed by Jeffery Lamont Sanders (Applicant) on March 6, 2023, and received by Respondent on April 3, 2023, Respondent makes the following return:<sup>1</sup>

**PROCEDURAL HISTORY**

Applicant is presently confined in the South Carolina Department of Corrections serving a year sentence. In May 2021, the Berkeley County Grand Jury indicted Applicant for unlawful carrying of a pistol (2021-GS-08-663) and failure to stop for a blue light (2021-GS-08-664). In September 2021, the Berkeley County Grand Jury indicted Applicant for trafficking in fentanyl, greater than 14 grams but less than 28 grams (2021-GS-08-1417). On May 9, 2022, Applicant appeared before the Honorable Roger M. Young, Sr. and, pursuant to a negotiated plea, pled guilty to unlawful carrying of a pistol; failure to stop on a blue light; and as to the trafficking fentanyl indictment, possession with intent to distribute (PWID) heroin, second offense.<sup>2</sup> Assistant Public

<sup>1</sup> Respondent's return was due to be filed withing sixty days of service. See Rule 12(a), SCRCP ("[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea . . ."). Having completed the return and in light of no demonstrable prejudice to Applicant as a consequence to any delay, Respondent asks this Court to accept this return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond); Guinyard v. State, 260 S.C. 220, 195 S.E.2D 392 (1973) (holding the trial court may extend the time for filing a return and the time limit prescribed by statute is not mandatory, but discretionary, with the trial court).

<sup>2</sup> Applicant also waived venue and pled to a failure to stop for a blue light charge out of Charleston; however, he has not challenged that conviction in this application.

*[Handwritten signature]*

Defender Jason C. Bybee represented Applicant, and Assistant Solicitor Kawohikukapulani Schaumburg Morris represented the State. Pursuant to the negotiation, Judge Young gave Applicant an eight-year active sentence. Specifically, Judge Young imposed concurrent sentences of eight years for PWID heroin, three years for failure to stop for a blue light, and one year for unlawful carrying of a pistol.<sup>3</sup> Pertinently, Judge Young stated, “I’m not going to give you any credit for the GPS time because it didn’t sound like you were doing that successfully.” Applicant did not file a direct appeal.

#### **CURRENT APPLICATION**

Applicant timely commenced this PCR action on March 6, 2023, asserting he is being held in custody unlawfully due to ineffective assistance of counsel. Specifically, he avers:

Plea counsel was ineffective for failure to appeal the plea judge decision for denied time credit when the applicant was on house arrest.

As relief, Applicant seeks “credit for house arrest from January 28, 2021 to May 9, 2022.”

Attached to this return and incorporated by reference are the Berkeley County of Clerk Court records regarding the subject conviction; Applicant’s records from the South Carolina Department of Corrections; and the plea transcript.

#### **INEFFECTIVE ASSISTANCE OF COUNSEL**

The State contends Applicant’s allegations of ineffective assistance of counsel are without merit. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel’s performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice because of counsel’s deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). “The test for

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<sup>3</sup> Applicant was on probation in Orangeburg County at the time of these charges; the Court also held a probation revocation hearing and terminated Applicant’s probation.

effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” Watson v. State, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, the applicant must prove “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

“A PCR applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the applicant would not have pled guilty and would have insisted on going to trial.” Dalton v. State, 376 S.C. 130, 136, 654 S.E.2d 870, 873 (Ct. App. 2007). To prove prejudice following a guilty plea, the applicant “must show that there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Applicant cannot satisfy either requirement of Strickland. However, the record likely does not refute or disprove Applicant’s allegation of ineffective assistance of counsel; therefore, the State requests an evidentiary hearing to resolve the issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

#### **BELATED APPEAL**

Applicant claims counsel was ineffective for not appealing his plea. “Following a trial, counsel must make certain the defendant is made fully aware of the right to appeal.” Simuel v. State, 390 S.C. 267, 270, 701 S.E.2d 738, 739 (2010). “However, the standard for a guilty plea differs.” Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). “Absent extraordinary

circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.” Id.

Even if the PCR court finds the applicant never voluntarily and intelligently abandoned his appeal, the PCR court has no jurisdiction to grant a belated appeal. White v. State, 263 S.C. 110, 119, 108 S.E.2d 35, 39 (1974). However, when an applicant establishes that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the PCR decision, will review the record and pass upon all issues properly raised and argued as if the direct appeal had been perfected. Id. at 119, 108 S.E.2d at 39-40.

Respondent submits there is not sufficient information at this time to discern whether Applicant can meet his burden of showing extraordinary circumstances that would entitle him to a belated appeal of his guilty plea. Because this allegation raises questions of fact not conclusively refuted by the record, Respondent requests an evidentiary hearing on this issue.

#### **ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY**

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney (and not Applicant) is the only individual authorized to file amendments to this applicant. See Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State or, alternatively, the State will request a continuance. See Love v. State, 428 S.C. 231, 245, 834 S.E.2d 196, 203 (2018) (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better

course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon showing of good cause. S.C. Code Ann. § 17-27-150. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. See Love, 428 S.C. 231, 834 S.E.2d 196.

#### **ALL OTHER CLAIMS**

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

[Conclusion and Signature Page Follows]

**CONCLUSION**

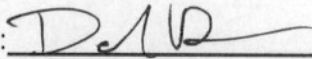
WHEREFORE, Respondent requests an evidentiary hearing on Applicant's claims of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON  
Attorney General

DON ZELENKA  
Deputy Attorney General

DANIELLE DIXON  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
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Telephone: (803) 734-3737

October 2, 2023

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF BERKELEY )  
 )  
 Jeffery Lamont Sanders, #387903 )  
 )  
 Applicant, )  
 )  
 vs )  
 )  
 State of South Carolina, )  
 )  
 Respondent, )  
 \_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
 2023-CP-08-00656

CERTIFICATE OF SERVICE BY MAIL

FILED  
 2023 OCT -4 PM 2:56  
 LEAH GUERRY DUPRE  
 CLERK OF COURT  
 BERKELEY COUNTY, SC

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Denise Grainger Swope, Esquire**  
**The Swope Law Firm, P.A.**  
**1525 Sam Rittenberg Boulevard, Suite 208**  
**Charleston, SC 29407**

DATED this 2<sup>nd</sup> day of October, 2023.

*Vickie Hall*  
 \_\_\_\_\_  
 Vickie Hall, Legal Assistant  
 For Respondent



I N D E X

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E X H I B I T S

(There were no exhibits marked during this hearing)

**Jeffrey L. Sanders vs State of South Carolina**

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1 THE COURT: Mr. Sanders, good morning.

2 MR. SANDERS: Good morning.

3 THE COURT: Mr. Sanders is present now. Attorney  
4 General, if you will just give me a little bit of the basis  
5 of our hearing today.

6 MS. DIXON: Yes sir. May it please the Court, I'm  
7 Danielle Dixon, assistant Attorney General for the state of  
8 South Carolina. This is the case of Jeffery L. Sanders v.  
9 State, docket number 2023-CP-08-00656. Mr. Sanders is  
10 currently serving an eight year sentence. In May of 2021,  
11 he was indicted by the Berkeley County Grand Jury of  
12 unlawful carrying of a pistol and failure to stop for a  
13 blue light, those are indictment numbers 2021-GS-8-663 and  
14 664. In September of 2021, he was indicted by the Berkeley  
15 County Grand Jury for trafficking fentanyl 14-28 grams.  
16 That's indictment number 2021-GS-08-1417. On May 9th 2022,  
17 he appeared before the Honorable Roger Young Sr. and pled  
18 guilty. This was a negotiated plea with an active eight  
19 year sentence. He pled to unlawful carrying and failure to  
20 stop as indicted, and then on the trafficking charge, he  
21 pled to the lesser included offense of PWID heroin. He was  
22 represented by Jason Bybee at the hearing, and he was  
23 sentenced to concurrent 8 year terms for PWID, three years  
24 for the blue light, and one year for the weapon charge. He  
25 did not file a direct appeal. He filed this PCR application

**Jeffrey L. Sanders vs State of South Carolina**

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1 on March 6, 2023, and Your Honor, our understanding is the  
2 only allegation he's going forward on today is that counsel  
3 did not appeal the Judge's decision to deny credit for time  
4 served. So we construe that as a request for a belated  
5 appeal. Is what he's going forward on today.

6 THE COURT: Okay. Ms. Swope.

7 MS. SWOPE: Yes, Your Honor. Denise Swope for the  
8 applicant. That is correct. It's a very, very simple PCR,  
9 he spent about a year on house arrest with monitoring, and  
10 Judge Young elected not to give him credit for that year,  
11 and he said that --- my client said that he did not  
12 understand that he had a right to appeal that determination  
13 and bizarrely if you look at the transcript Judge Young did  
14 not say, do you understand that you have 10 days to appeal  
15 my ruling here today. I think what happened is they  
16 stopped in the middle, they recessed to discuss an issue,  
17 and I think it just disrupted everybody's role. But it  
18 actually wasn't said in the hearing that he had a right to  
19 appeal the sentence if he wanted to, and he didn't realize  
20 that he could. And so that's where we are. It's on a very  
21 limited issue if he wanted to appeal that Judge Young  
22 denied him credit for the time on house arrest.

23 THE COURT: That was monitored house arrest?

24 MS. SWOPE: Monitored house arrest, yes sir.

25 THE COURT: Okay. Do you want to go ahead and call

**Jeffrey L. Sanders vs State of South Carolina**

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1 JEFFREY L. SANDERS - EXAMINATION BY MS. SWOPE

2 a witness then?

3 MS. SWOPE: Yes. I would call Mr. Sanders. Mr.  
4 Jeffery Lamont Sanders.

5 MR. SANDERS: Yes sir. Good morning.

6 THE COURT: Good morning. Where's the witness  
7 stand. Oh right there.

8 MS. SWOPE: Go up there.

9 THE COURT: It's out of sight.

10 CLERK OF COURT: Please raise your right hand. Do  
11 you solemnly swear or affirm to tell the truth, the whole  
12 truth and nothing but the truth so help you God?

13 MR. SANDERS: Yes ma'am.

14 CLERK OF COURT: Thank you. You may be seated.  
15 State your full name for the record and spell your last  
16 name.

17 MR. SANDERS: Jeffery Lamont Sanders. S-A-N-D-E-R-  
18 S.

19 **Mr. Jeffery Sanders - Examination by Ms. Denise Swope**

20 Q. Yes, Mr. Sanders, you heard the resuscitation of the  
21 history of the case and the plea and what happened. You  
22 were before Judge Young and you were sentenced to  
23 essentially to eight years. Is that correct?

24 A. Yes ma'am.

25 Q. And part of the time served credit that you asked

**Jeffrey L. Sanders vs State of South Carolina**

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1 for, you were given credit for 79 days, which is the time  
2 that you spent in jail. But you were asking for a little  
3 bit more than a year, I believe on time for house arrest on  
4 monitoring. Is that right?

5 A. Yes ma'am.

6 Q. And Judge Young denied that request?

7 A. Yes ma'am.

8 Q. Did you understand that you had the right to appeal  
9 his sentence, but that you only had 10 days to do that?

10 A. No ma'am.

11 Q. Okay. And when you realize that, that's when you  
12 filed this PCR?

13 A. Yes ma'am.

14 Q. And a lot of hay was made in the hearing, in the plea  
15 hearing, that they filed a motion to revoke your bond. Is  
16 that correct?

17 A. Yes ma'am.

18 Q. Do you recall that that motion to revoke your bond  
19 was denied? That they asked to revoke your bond because  
20 they said you weren't cooperating on house arrest but the  
21 Judge said, no?

22 A. Yes ma'am.

23 Q. Okay, that's why you're asking that you should be  
24 granted the credit for that year?

25 A. Yes ma'am.

**Jeffrey L. Sanders vs State of South Carolina**

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1 JASON BYBEE - EXAMINATION BY MS. DIXON

2 MS. SWOPE: Okay. Nothing further, Your Honor.

3 THE COURT: All right. Cross examination.

4 MS. DIXON: Nothing from the state.

5 THE COURT: Okay. The witness may step down. Any  
6 other witnesses? Do you have any other witnesses?

7 MS. SWOPE: I do not.

8 MS. DIXON: All right, Your Honor, the state calls  
9 Jason Bybee.

10 THE COURT: Very well.

11 CLERK OF COURT: Do you solemnly swear or affirm  
12 the testimony you shall give will be the truth, the whole  
13 truth and nothing but the truth so help you God?

14 MR. BYBEE: I do.

15 DEPUTY CLERK: Thank you. You may be seated.  
16 Please state your full name for the record and spell your  
17 last.

18 MR. BYBEE: Jason Bybee. B-Y-B-E-E.

19 **Mr. Jason Bybee - Examination by Ms. Dixon**

20 Q. Mr. Bybee, how are you doing today?

21 A. Well. How are you?

22 Q. Good. Thank you. And just tell us briefly, how did  
23 you get involved with Ms. Sanders case?

24 A. Mr. Sanders filed a motion to be relieved. Well he  
25 may have filed it. I don't know. His former counsel was

**Jeffrey L. Sanders vs State of South Carolina**

8

1 private counsel, Lisa Gay and once she was relieved, I was  
2 appointed because I'm a public defender.

3 Q. Okay, so you were appointed, and then what was your  
4 process once you got the case in terms of did you gear up  
5 for trial or did you work on negotiating a plea?

6 A. First I met with Mr. Sanders and we discussed root  
7 causes of what he was doing there and reviewed some of the  
8 evidence against him. And I suggested that he start going  
9 to a place called the Kennedy Center in Moncks Corner, a  
10 treatment facility, and then I engaged in negotiation with  
11 the state.

12 Q. Do you recall about how many times you met with him  
13 prior to his plea?

14 A. I would say at least two. But if I could check my  
15 notes I could be more specific.

16 Q. Sure, go ahead and check your notes.

17 A. My initial consult with him was on April the 4<sup>th</sup>,  
18 2022 and while it's not in my paper file, I believe in my  
19 digital file there will be a record of another meeting that  
20 we had prior to the plea at my office and then I met with  
21 him at length that day as well.

22 Q. Okay. And did y'all discuss the charges he was  
23 facing?

24 A. Yes ma'am.

25 Q. The state's burden of proof?

## Jeffrey L. Sanders vs State of South Carolina

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1 A. Yes ma'am.

2 Q. The sentences he was facing?

3 A. Yes ma'am.

4 Q. The negotiated plea?

5 A. Yes ma'am.

6 Q. The constitution rights he was waving?

7 A. Yes ma'am.

8 Q. How about his right to appeal?

9 A. If he didn't understand that, you know, it's possible  
10 that I didn't go over that with him. It being a negotiated  
11 plea, we were going in with the understanding that the  
12 judge could either accept or reject that plea and I don't  
13 have a record or a memory of whether I specifically advised  
14 him of that or not.

15 Q. Got you. And, of course, with it being a negotiated  
16 plea he knew walking in what the sentence would be if the  
17 judge accepted it?

18 A. He did with exception to the house arrest issue. That  
19 was the one ...

20 Q. Okay.

21 A. ... That was the one question mark.

22 Q. Got you. Okay. And then when you were in court after  
23 the plea, did he ask you to file a notice of appeal?

24 A. He did not.

25 Q. He did not. Did he ever reach out and ask to file a

1 notice of appeal?

2 A. He did but from SCDC and months late.

3 Q. Months later. So at that time, was it beyond the ten  
4 day?

5 A. It was. And I originally filed it and Judge Young's  
6 clerk asked me for the grounds and at that point I kind of  
7 realized that the entire matter was litigated after  
8 speaking with the prosecutor on the case. And there wasn't  
9 an actual ground to file for the motion of reconsider. So I  
10 withdrew that and wrote Mr. Sanders informing him of that.

11 Q. Then in terms of that issue that was litigated, are  
12 you referring to the GPS monitoring?

13 A. Yes ma'am.

14 Q. And do you recall his behavior on the GPS monitor?  
15 Did he comply with it? Did they have trouble with him  
16 complying?

17 A. The government alleged that he didn't comply with it.  
18 Depending on the company that was doing the monitoring  
19 there can be issues that show up on paper, but are not in  
20 fact issues. But Lisa Gay was his attorney of record for  
21 that time period. I did bring up that the  
22 motion was denied by Judge Jefferson at the hearing. And  
23 Judge Young nonetheless decided to side with the state on  
24 that issue.

25 Q. Got you. But that was an issue that was brought to

**Jeffrey L. Sanders vs State of South Carolina**

11

1 JASON BYBEE - CROSS EXAMINATION BY MS. SWOPE

2 Judge Young was whether or not to give him timed served  
3 with GPS?

4 A. Yes ma'am.

5 MS. DIXON: All right. Nothing further.

6 THE COURT: Cross examination?

7 MS. SWOPE: Yes, Your Honor. Very very quickly  
8 just for the sake of the record.

9 **Mr. Jason Bybee - Cross Examination by Ms. Denise Swope**

10 Q. I would like to hand this to Mr. Bybee and ask ...

11 MS. DIXON: Can I see it?

12 MS. SWOPE: Yes. I'm sorry. I thought I showed  
13 that to you. Just a little form order where they denied the  
14 motion.

15 MS. DIXON: Okay.

16 Q. Mr. Bybee, I handed you a document and I am asking if  
17 you can identify it.

18 A. Yes ma'am, I can.

19 Q. What is that document?

20 A. It's an order denying a motion for revocation by the  
21 government.

22 Q. And that was your understanding that the government  
23 asked that his bond be denied for misbehavior on house  
24 arrest but the court said no to that motion?

25 MS. DIXON: Object to leading.

**Jeffrey L. Sanders vs State of South Carolina**

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1 JASON BYBEE - REDIRECT EXAMINATION BY MS. DIXON

2 THE COURT: Is that an objection?

3 MS. DIXON: I'll withdraw it. I think it was not  
4 necessary.

5 THE COURT: Okay. Fair enough.

6 A. That's correct. That is my understanding.

7 Q. Your Honor, I would ask to move that into evidence.

8 THE COURT: The order denying revocation?

9 Q. The order denying revocation, yes sir.

10 THE COURT: It's already --- It's in the record.  
11 Is it in this packet?

12 MS. SWOPE: It should be.

13 MS. DIXON: It should be.

14 MS. SWOPE: I'm not sure.

15 THE COURT: For purposes of this hearing it's  
16 admitted.

17 MS. SWOPE: Okay. Thank you. Your Honor, I have  
18 nothing further. I was just making sure it was there.

19 THE COURT: Any redirect?

20 **Mr. Jason Bybee - Redirect Examination by Ms. Danielle**

21 **Dixon**

22 Q. Mr. Bybee, I'm going to hand you this. Can you just  
23 read what the judge wrote at the bottom?

24 A. Yes ma'am. It says defendant was admonished to  
25 strictly comply with his bond conditions of strict house

## Jeffrey L. Sanders vs State of South Carolina

13

1 arrest.

2 Q. And why do you think she was admonishing him?

3 A. Judge Jefferson often makes sure that defendants  
4 understand the requirements of house arrest especially when  
5 there's a question of whether or not they've been in  
6 compliance.

7 MS. DIXON: Nothing further.

8 THE COURT: Nothing further?

9 MS. DIXON: Nothing further.

10 THE COURT: All right. Recross?

11 MS. SWOPE: Nothing, Your Honor.

12 THE COURT: All right. The witness may step down.

13 MR. BYBEE: Thank you, Your Honor.

14 THE COURT: Any other witnesses?

15 MS. DIXON: No other witnesses just brief  
16 argument, Your Honor.

17 THE COURT: All right. Just give me 60 seconds  
18 please. All right, Ms. Swope.

19 MS. SWOPE: Yes, Your Honor. Mr. Sanders is not  
20 disputing his sentence. He's not disputing the  
21 plea. He is simply asking for an appellant review as to  
22 whether he should've been granted the time served because  
23 counsel has no recollection of that discussion. My client  
24 testified that he did not know that he could appeal. And  
25 bizarrely and out of the ordinary that wasn't in the

1 record, where the judge would normally say, do you  
2 understand you have 10 days to appeal my ruling here today.  
3 It's not in the record, and I think that that simply  
4 happened because they broke in the middle to discuss  
5 another issue and kind of disrupted the normal flow of  
6 things. But Judge Young, very unusually, did not say it. So  
7 I think that it's, it's, it's very clear from the record  
8 that my client didn't understand he had the right to appeal  
9 Judge Young's decision on the house arrest for the one  
10 year. And just for the record, he's asking for credit, I  
11 think it's in the transcript as well ...

12 THE COURT: 492 days is what I saw.

13 MS. SWOPE: Yes, from January 28<sup>th</sup>, 2021 to May  
14 9<sup>th</sup>, 2022. So it's not a matter of a few days, and he's  
15 just simply asking for his right to appellant review which  
16 he would've asked for if he understood he could.

17 THE COURT: Anything from the state?

18 MS. DIXON: May it please the Court. Your Honor  
19 and of course, following a trial a criminal defendant has a  
20 right to be informed of an appeal. However, a guilty plea  
21 is a different situation. Following a guilty plea, and this  
22 is *Turner v. State* 380 SC 223, there's no constitutional  
23 right to be informed of a right to appeal. It says absent  
24 extraordinary circumstances, such as when there's a reason  
25 to think a rational defendant would want to appeal, for

**Jeffrey L. Sanders vs State of South Carolina**

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1 example, non frivolous grounds, or when the defendant  
2 recently demonstrated an interest in appealing, there is no  
3 constitutional requirement that a defendant be informed of  
4 his right to appeal. So the standard for appealing from a  
5 guilty plea is just different. And in fact, once you file a  
6 notice of appeal from a guilty plea, the appellant courts  
7 require you to then submit, I believe it's rule 203, an  
8 explanation as to why you should even be able to proceed on  
9 an appeal from a guilty plea before they will even accept  
10 the appeal. We would just submit that there are no basis  
11 for an appeal here. Mr. Bybee testified that he didn't  
12 reach out to him about filing an appeal until more than 10  
13 days after the hearing. At the hearing itself, he did not  
14 request an appeal. And the issue he's raised is, of course,  
15 a discretionary issue with the trial court, and we would  
16 submit there's no basis for an appeal.

17 THE COURT: It's certainly a narrow issue I would  
18 think. I've said this thousands of times over the last few  
19 years and I can see where we would take a recess this might  
20 happen. Now to be clear, he did certainly notify the  
21 defendant in the beginning of the plea about informing of  
22 his jury trial rights, about how he would have the right to  
23 appeal if he wanted a jury trial. Obviously, the granting  
24 or denying of GPS credit or GPS house monitoring credit I  
25 believe it's purely discretionary.

**Jeffrey L. Sanders vs State of South Carolina**

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1 MS. DIXON: It is purely discretionary.

2 THE COURT: With that said, anything else from  
3 you, Ms. Swope?

4 MS. SWOPE: Nothing Your Honor other than my  
5 client was very clear that he would have asked, if he had  
6 known he had the right to do so.

7 THE COURT: So y'all describe it as a belated  
8 appeal. I mean you're not asking for --- I mean typically  
9 it would have been a motion to reconsider to the trial  
10 court for their decision. But because we are in the  
11 position we are in now, it's just an appellant issue for  
12 the Court of Appeals. Is that right?

13 MS. DIXON: Yes sir.

14 MS. SWOPE: Yes Your Honor. It's odd in terms of  
15 process because that's where we are now.

16 MS. DIXON: Typically done pursuant to *Wyatt v.*  
17 *State*, which is more common when there's a trial,  
18 because there is a more of a right to appeal from a trial,  
19 the right to appeal from a guilty plea is much more narrow.  
20 In fact, to the point where the appellate courts will not  
21 even accept an appeal from a guilty plea unless you give  
22 them a good reason that they accept prior to ...

23 THE COURT: My thing is Judge Young sort of  
24 answered the question on GPS why he wasn't granting the  
25 time. Because there was no motion to reconsider filed and

**Jeffrey L. Sanders vs State of South Carolina**

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1 your client asserts he didn't understand he could do that.  
2 That's why we're here. Okay well I'm going to take this  
3 under advisement and I'll try to get something to you.

4 MS. SWOPE: Thank you, Your Honor.

5 THE COURT: Because it's so narrow issue I think  
6 we can actually draft this order ourselves. Whatever the  
7 decision is.

8 MS. DIXON: Your Honor, could - You --- Okay.  
9 That's great.

10 THE COURT: Well I know y'all have a lot of orders  
11 to do.

12 MS. SWOPE: They do.

13 THE COURT: I might actually ask you to email us  
14 ..

15 MS. DIXON: The caption with the procedural  
16 history and the ...

17 THE COURT: The procedural history noted in your  
18 return .

19 MS. DIXON: Basically the front of the return.

20 THE COURT: Correct.

21 MS. DIXON: Okay.

22 THE COURT: I think we can take it from there in  
23 this circumstance.

24 MS. DIXON: Okay. That would be great.

25 MS. SWOPE: Thank you, Your Honor.

**Jeffrey L. Sanders vs State of South Carolina**

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MS. DIXON: Thank you.

Jeffrey L. Sanders vs State of South Carolina

1 STATE OF SOUTH CAROLINA )

2 ) CERTIFICATE

3 COUNTY OF BERKELEY )

4 .

5 Be it known that I, the undersigned Melissa R. Singletary, Certified Verbatim Reporter, for the State of South Carolina, do hereby certify that the foregoing transcript represents a true, accurate and complete transcript of record of the testimony and evidence introduced in during this testimony of the captioned case, before the Circuit Court for Berkeley County, South Carolina, so given on March 11, 2024 to the best of my skill and ability;

14 That I am not related to nor an employee of any of the parties hereto, nor a relative or employee of any attorney or counsel employed by the parties hereto, nor interested in the outcome of this action.

18 IN WITNESS WHEREOF I have here unto set my hand this 22<sup>nd</sup> day of May, 2025.

20 *Melissa R. Singletary*  
21 \_\_\_\_\_

22 Melissa R. Singletary, CVR  
23 Certified Verbatim Reporter

24

25

STATE OF SOUTH CAROLINA )  
 COUNTY OF BERKELEY )  
 )  
 Jeffery Lamont Sanders, #387903 )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 State of South Carolina, )  
 )  
 Respondent. )

IN THE COURT OF COMMON PLEAS FOR  
 THE NINTH JUDICIAL CIRCUIT

Case No.: 2023-CP-08-00656

**Order of Dismissal**  
 2025 FEB 20 PM 12:05  
 LEAH GUENEY DUPREE  
 CLERK OF COURT  
 BERKELEY COUNTY, SC  
 FILED

This matter came before the Court on Jeffery Lamont Sanders' (Applicant) application for post-conviction relief filed on March 6, 2023. Respondent filed a return requesting an evidentiary hearing. On March 11, 2024, an evidentiary hearing convened before the Honorable Walton J. McLeod, IV. Applicant was present and represented by Denise G. Swope, Esquire. Assistant Attorney General Danielle Dixon represented Respondent. At the start of the hearing, Applicant indicated he was proceeding only on the issue of whether he was entitled to a belated appeal of his guilty plea. Applicant testified on his behalf, and Respondent called as a witness Public Defender Jason C. Bybee, who represented Applicant at his plea hearing. Following a thorough review of the transcript and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. - Thus, this Court denies relief and dismisses this application with prejudice.

**PROCEDURAL HISTORY**

Applicant is confined in the South Carolina Department of Corrections serving an eight-year sentence. In May 2021, the Berkeley County Grand Jury indicted Applicant for unlawful carrying of a pistol (2021-GS-08-663) and failure to stop for a blue light (-664). In September 2021, the Berkeley County Grand Jury indicted Applicant for trafficking fentanyl, 14 to 28 grams

(2021-GS-08-1417). On May 9, 2022, Applicant appeared before the Honorable Roger M. Young, Sr. and, pursuant to a negotiated plea, pled guilty to unlawful carrying of a pistol; failure to stop on a blue light; and as to the trafficking indictment, Applicant pled down to possession with intent to distribute (PWID) heroin, second offense.<sup>1</sup> Assistant Public Defender Jason C. Bybee represented Applicant, and Assistant Solicitor Kawohikukapulani Schaumburg Morris represented the State. Pursuant to the negotiation, Judge Young sentenced Applicant concurrently to eight years for PWID heroin, three years for failure to stop for a blue light, and one year for the weapon charge.<sup>2</sup> Pertinently, Judge Young stated, “I’m not going to give you any credit for the GPS time because it didn’t sound like you were doing that successfully.” Applicant did not file a direct appeal.

#### **CURRENT APPLICATION**

Applicant timely commenced this PCR action on March 6, 2023, alleging:

Plea counsel was ineffective for failure to appeal the plea judge decision for denied time credit when the applicant was on house arrest.

At the hearing, Applicant proceeded only on this allegation.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This Court has reviewed the records before it, including the Berkeley County Clerk of Court records of the underlying conviction; Applicant’s records from the South Carolina Department of Corrections; the plea transcript; and the records from this PCR action. This Court has further observed the witnesses presented at the hearing, evaluated their credibility, and weighed

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<sup>1</sup> Applicant also waived venue and pled to a failure to stop for a blue light charge out of Charleston, but he has not challenged that conviction.

<sup>2</sup> Applicant was on probation in Orangeburg County at the time of these charges; the Court also held a probation revocation hearing and terminated Applicant’s probation.

their testimony accordingly. After a careful review, this Court finds Applicant has failed to carry his burden of proof. Below are this Court's findings of fact and conclusions of law as required by §17 27-80 of the South Carolina Code (2017).

***Belated Appeal***

Applicant claims counsel was ineffective for not appealing his plea. This Court finds Applicant did not meet his burden. "Following a trial, counsel must make certain the defendant is made fully aware of the right to appeal." Simuel v. State, 390 S.C. 267, 270, 701 S.E.2d 738, 739 (2010). "However, the standard for a guilty plea differs." Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008).

Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Id.

At the PCR hearing, Applicant testified he did not understand he had a right to appeal or that he only had ten days to file an appeal. He stated he first learned he could file an appeal when he filed his PCR application. Plea counsel could not recall if he discussed an appeal with Applicant, but he testified Applicant did not ask him to file a notice of appeal while they were in court. He stated Applicant called more than ten days later about an appeal.

This Court finds plea counsel's foregoing testimony credible. This Court further finds Applicant did not demonstrate he is entitled to a late appeal. Although plea counsel could not recall whether he discussed a plea with Applicant, an attorney does not have a duty to inform a defendant of the right to appeal from a guilty plea. See id. Further, Applicant did not relay to counsel that he wanted to appeal until after the time for filing the appeal had passed, and this Court finds Applicant

did not demonstrate extraordinary circumstances for appealing this guilty plea. Thus, this Court finds Applicant is not entitled to a late appeal of this plea.

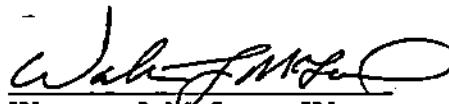
#### CONCLUSION

Based on the foregoing, this Court concludes Applicant has not established any constitutional violations that would require this Court to grant relief. Thus, this application is denied and dismissed with prejudice. Should Applicant wish to appeal, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991). If Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCR. Attention is directed to Rule 243, SCACR, for appellate procedures.

After considering the arguments presented by Counsel, relevant testimony, and reviewing applicable law I find:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant shall be remanded to and remain in the custody of the State.

**IT IS SO ORDERED.**

  
 WALTON J. MCLEOD, IV  
 Presiding Judge  
 Ninth Judicial Circuit

Charleston, South Carolina  
FEB 13, 2025

KLAS/0375109  
WITNESSES

Berkeley County Sheriff's Office

*Perry Smith, Jr.*

AGENCY CASE NUMBER

2020-07006259

ARREST WARRANT NUMBER

2020A0810301040

DATE OF ARREST

01/01/2021

ACTION OF GRAND JURY

**True Bill**

*Rayanda Rameel*  
Foreperson of Grand Jury

*5/12/2021*  
Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021-GS-08-00663

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

MAY TERM 2021

THE STATE

VS.

**JEFFERY LAMONT SANDERS** A.K.A.

Jeffrey Sanders, Jeffery Sandes, Jeffery S Sanders

**B/M DOB:** [REDACTED]

Indictment for

**UNLAWFUL CARRYING OF A PISTOL**

SC Code: § 16-23-0020

CDR Code: 0044

21 MAY 12 AM 4:09  
LEAH GUERRY JUDGE  
CLERK OF COURT  
BERKELEY COUNTY, SC

*H*  
**FILED**

*JGG*

STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened May 2021, the Grand Jurors of Berkeley County present upon their oath:

UNLAWFUL CARRYING OF A PISTOL

The Defendant, Jeffery Lamont Sanders, did in Berkeley County, on or about July 17, 2020, willfully and unlawfully carry about his person a handgun, whether concealed or not, in violation of §16-23-20 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
KAWOHI SCHAUMBURG  
ASSISTANT SOLICITOR

KLAS/0375109  
WITNESSES

Berkeley County Sheriff's Office

*Perry Smith, Jr.*

AGENCY CASE NUMBER

2020-07006259

ARREST WARRANT NUMBER

2020A0810301041

DATE OF ARREST

01/01/2021

ACTION OF GRAND JURY

**True Bill**

*Regenda Rowanell* *5/12/2021*  
Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2021-GS-08-00664

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

MAY TERM 2021

THE STATE

VS.

JEFFERY LAMONT SANDERS A.K.A.

Jeffrey Sanders, Jeffery Sandes, Jeffery S Sanders

B/M DOB: [REDACTED]

Indictment for

**FAILURE TO STOP FOR A BLUE LIGHT**

SC Code: § 56-05-0750(B)(1)

CDR Code: 0065

FILED  
21 MAY 12 AM 4:09  
LEAH GUERRY, CLERK OF COURT  
BERKELEY COUNTY, SC

*JRG*

STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened May 2021, the Grand Jurors of Berkeley County present upon their oath:

FAILURE TO STOP FOR A BLUE LIGHT

That in Berkeley County, South Carolina, on or about July 17, 2020, the Defendant, Jeffery Lamont Sanders, while driving a motor vehicle on a road, street, or highway of the State did, in the absence of mitigating circumstances, knowingly fail to stop after being signaled to do so by a law enforcement vehicle by means of flashing light and/or a siren, in violation of § 56-5-750 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
KAWOHI SCHAUMBURG  
ASSISTANT SOLICITOR

KLASM/0375109  
WITNESSES

Berkeley County Sheriff's Office

*[Signature]*

**AGENCY CASE NUMBER**

2020-07006259

**ARREST WARRANT NUMBER**

2020A0810301043

**DATE OF ARREST**

01/01/2021

**ACTION OF GRAND JURY**

*Kate Salcedo* 15 Sep 21  
Foreperson of Grand Jury  
Date:

**VERDICT**

DOCKET NO. 2021-GS-08-01417

**The State of South Carolina**

County of Berkeley

**COURT OF GENERAL SESSIONS**

SEPTEMBER TERM 2021

THE STATE

VS.

**JEFFERY LAMONT SANDERS**  
B/M DOB [REDACTED]

Indictment for

**TRAFF FENTANYL 14G BUT <28G**

SC Code: § 44-53-0370(e)(3)(b)

CDR Code: 0287

21 SEP 15 PM 12:49  
LEAH GUERRY DUPREE  
CLERK OF COURT  
BERKELEY COUNTY, SC

FILED

JAH

STATE OF SOUTH CAROLINA  
COUNTY OF BERKELEY

INDICTMENT

At a Court of General Sessions, convened September 2021, the Grand Jurors of Berkeley County present upon their oath:

**Trafficking in Fentanyl**

The defendant, Jeffery Lamont Sanders, did on or about July 17, 2020, in Berkeley County, South Carolina, knowingly sell, manufacture, cultivate, deliver, purchase, or bring into this State, or did provide financial assistance or otherwise aid, abet, attempt, or conspire to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or was knowingly in actual or constructive possession or knowingly attempted to become in actual or constructive possession of fourteen (14) grams or more of Fentanyl, as described in Section 44-53-190 or 44-53-210, or fourteen (14) grams or more of any mixture containing any of these. All in violation of 44-53-0370(e)(3)(b) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
**KAWOHL-SCHAUMBURG-MORRIS**  
ASSISTANT SOLICITOR